

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DR. PAM ANDERSON,
WANDA SMITH, OPHELIA
BURROUGHS, MARY BAKER,
DR. ALIEKA ANDERSON and
CHARLTON BIVINS, in their
official capacities as members of
the Clayton County Board of
Education and individually as
residents and voters in the Clayton
County School District,

Plaintiffs,

v.

CLAYTON COUNTY
ELECTIONS AND
REGISTRATION BOARD,
ROBERT P. BOLIA, PATRICIA
PULLAR, RUTH F. ASH,
VIVIAN BALDWIN AND JIM
CONSTABLE, in their official
capacities as members of the
Clayton County Elections and
Registration Board, and the
STATE OF GEORGIA, as
representative of the Georgia
Legislature,

Defendants.

CIVIL ACTION

FILE NO. 1:12-cv-01665-CAP

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTIVE RELIEF**

COME NOW, DR. PAM ANDERSON, WANDA SMITH, OPHELIA BURROUGHS, MARY BAKER, DR. ALIEKA ANDERSON and CHARLTON BIVINS, in their official capacities as members of the Clayton County Board of Education and individually as residents and voters in the Clayton County School District, Plaintiffs in the above-styled action ("Plaintiffs"), and, pursuant to FED. R. Civ. P. 65(a) and (b), respectfully moves the Court for a Temporary Restraining Order and Preliminary Injunction, showing the Court as follows:

1.

Plaintiffs hereby incorporate by reference the facts set forth in their Complaint.

2.

Plaintiffs show that present Clayton County Board of Education Districts (hereinafter referred to as the "BOE Districts") are so disproportionate in population that they violate the principle of "one person, one vote" and the continued use of such districts cannot be justified as furthering a compelling governmental interest.

3.

Plaintiffs seek a temporary restraining order and preliminary injunction halting the current election process for the Clayton County Board of Education since the disproportionate sizes of the current districts, their continued use in future elections, including the election scheduled for 2012 is unconstitutional. Plaintiffs also request injunctive relief, prohibiting further Board of Education (“BOE”) member qualifications from being determined or elections from being conducted under the present districts.

4.

Plaintiffs have shown a substantial likelihood of prevailing upon the merits of this case inasmuch as the current BOE Districts are unconstitutional.

5.

Plaintiffs have a recognized and established interest in correcting the current BOE Districts as they are members of the Clayton County Board of Education and are voters in Clayton County..

6.

Allowing elections to proceed using the current BOE Districts will cause Plaintiffs harm, and will in the future damage Plaintiffs since such elections will be subject to constitutional challenge. Further a Board of Education, if elected upon

the current BOE Distircts will be subject to having its decisions challenged on the basis the Board of Education was illegally elected.

7.

Plaintiffs will continue to suffer harm as a result of elections based on the current BOE Districts.

8.

For the reasons stated in their Complaint, Plaintiffs have demonstrated a likelihood of success on the merits, and the balance of the equities favors the issuance of an temporary restraining order and preliminary injunction against Defendants ROBERT P. BOLIA, PATRICIA PULLAR, RUTH F. ASH and VIVIAN BALDWIN (hereinafter referred to as the “Elections Board Defendants”), the current members of the Clayton County Elections and Registration Board (“Elections Board”). Moreover, unless the Elections Board and Elections Board Defendants are enjoined from proceeding with Board of Education elections under the current BOE Districts, Plaintiffs will be irreparably harmed by:

- (a) Having their positions invalidated; and
- (b) Having the new Board of Education’s decisions subject to being invalidated.

9.

Plaintiffs have no adequate remedy at law.

10.

Accordingly, Plaintiffs respectfully request that a Temporary Restraining Order and Preliminary Injunction issue immediately, enjoining the Elections Board and Elections Board Defendants from proceeding with Board of Education elections based on the current BOE Districts. Plaintiffs show that the Court's Order so enjoining the Elections Board and Elections Board Defendants should remain in place until such time as constitutional BOE Districts can be created.

Respectfully submitted this 23rd day of May, 2012.

BROCK, CLAY, CALHOUN & ROGERS, LLC
Attorney for Plaintiffs

/s/ Todd E. Hatcher

Todd E. Hatcher, Esq.
Georgia Bar No. 337507
thatcher@brockclay.com
Aric M. Kline, Esq.
Georgia Bar No. 014020
akline@brockclay.com
400 Galleria Parkway
Suite 1440
Atlanta, GA 30339

Telephone: (770) 422-1776
Facsimile: (678) 784-3572

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DR. PAM ANDERSON,	:	
WANDA SMITH, OPHELIA	:	
BURROUGHS, MARY BAKER,	:	
DR. ALIEKA ANDERSON and	:	
CHARLTON BIVINS, in their	:	CIVIL ACTION
official capacities as members of	:	
the Clayton County Board of	:	FILE NO. 1:12-cv-01665-CAP
Education and individually as	:	
residents and voters in the Clayton	:	
County School District,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
CLAYTON COUNTY	:	
ELECTIONS AND	:	
REGISTRATION BOARD,	:	
ROBERT P. BOLIA, PATRICIA	:	
PULLAR, RUTH F. ASH,	:	
VIVIAN BALDWIN AND JIM	:	
CONSTABLE, in their official	:	
capacities as members of the	:	
Clayton County Elections and	:	
Registration Board, and the	:	
STATE OF GEORGIA, as	:	
representative of the Georgia	:	
Legislature,	:	
	:	
Defendants.	:	

CERTIFICATE OF COMPLIANCE WITH L.R. 5.1

Pursuant to Local Rule 5.1, the undersigned counsel hereby certifies that the foregoing pleading was prepared with one of the font and point selections approved by the Court.

This 23rd ay of May, 2012.

BROCK, CLAY, CALHOUN & ROGERS, LLC
Attorney for Plaintiffs

/s/ Todd E. Hatcher

Todd E. Hatcher, Esq.

Georgia Bar No. 337507

thatcher@brockclay.com

Aric M. Kline, Esq.

Georgia Bar No. 014020

akline@brockclay.com

400 Galleria Parkway

Suite 1440

Atlanta, GA 30339

Telephone: (770) 422-1776

Facsimile: (678) 784-3572

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DR. PAM ANDERSON,
WANDA SMITH, OPHELIA
BURROUGHS, MARY BAKER,
DR. ALIEKA ANDERSON and
CHARLTON BIVINS, in their
official capacities as members of
the Clayton County Board of
Education and individually as
residents and voters in the Clayton
County School District,

Plaintiffs,

v.

CLAYTON COUNTY
ELECTIONS AND
REGISTRATION BOARD,
ROBERT P. BOLIA, PATRICIA
PULLAR, RUTH F. ASH,
VIVIAN BALDWIN AND JIM
CONSTABLE, in their official
capacities as members of the
Clayton County Elections and
Registration Board, and the
STATE OF GEORGIA, as
representative of the Georgia
Legislature,

Defendants.

CIVIL ACTION

FILE NO. 1:12-cv-01665-CAP

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of **PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTIVE RELIEF** has been served upon counsel for the opposing party in the foregoing matter by U.S. Mail and by electronic mail, addressed as follows:

Jack Hancock, Esq.
jhancock@fmglaw.com
Freeman, Mathis & Gary
100 Galleria Parkway
Suite 1600
Atlanta, Georgia 30339

Stefan Ritter, Esq.
sritter@law.ga.gov
Office of the Attorney General
40 Capitol Square, SW
Atlanta, Ga 30334

BROCK, CLAY, CALHOUN & ROGERS, LLC
Attorney for Plaintiffs

/s/ Todd E. Hatcher

Todd E. Hatcher, Esq.
Georgia Bar No. 337507
thatcher@brockclay.com
Aric M. Kline, Esq.
Georgia Bar No. 014020
akline@brockclay.com
400 Galleria Parkway
Suite 1440
Atlanta, GA 30339
Telephone: (770) 422-1776
Facsimile: (678) 784-3572